

33302

SERVICE DATE - JANUARY 9, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34304]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption —The Portland & Western Railroad, Inc.

On December 20, 2002, The Burlington Northern and Santa Fe Railway Company (BNSF) filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for overhead trackage rights between milepost 68.6 at Bush, OR, and milepost 96.5 at Albany, OR, a distance of 27.9 miles. The trackage rights operations would be conducted over part of a line owned by BNSF, which was leased to The Portland & Western Railroad, Inc. (P&WR), pursuant to a transaction exempted in Portland & Western Railroad, Inc. — Lease and Operation Exemption — The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 34255 (STB served Jan. 3, 2003).

The transaction was scheduled to be consummated on or after December 27, 2002, the effective date of the exemption. The purpose of the trackage rights is to allow BNSF to operate over the leased line: (1) moving trains containing loaded or empty cars interchanged with P&WR and other carriers having interchanges at Albany; or (2) for pre-positioning or

storage of cars as agreed to between BNSF and P&WR.¹

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

The notice is filed under 49 CFR 1180.2(d). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34304, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Sarah W. Bailiff, The Burlington Northern and Santa Fe Railway Company, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

¹ On December 23, 2002, BNSF filed a motion to dismiss this notice on the ground that separate Board approval of its trackage rights is unnecessary. John D. Fitzgerald, on behalf of the United Transportation Union - General Committee of Adjustment, replied on December 30, 2002. The motion to dismiss will be addressed in a separate decision.

Decided: January 3, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary